

AMENDED IN ASSEMBLY MAY 8, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1640

Introduced by Assembly Member La Malfa

February 23, 2007

An act to amend Section 4005 of the Harbors and Navigation Code, to amend Section 4662 of the Labor Code, and to amend Sections 26 and 31 of the Penal Code, relating to mental incapacity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1640, as amended, La Malfa. Mental incapacity: deletion of demeaning terminology.

Existing law uses terms “idiot,” “imbecility,” and “lunatics” when referring to mentally incompetent persons with regard, respectively, to certain notice provisions for construction of a wharf or chute, certain workers’ compensation inquires, and persons who are not capable of committing a crime or who encourage others to commit crimes.

This bill would delete those references, and would, instead, refer to persons who are mentally incapacitated, *and would declare the intent of the Legislature not to adversely affect existing case law using those terms.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4005 of the Harbors and Navigation Code is amended to read:

4005. If the owner of the land is a nonresident of the county the sheriff may make service by leaving a copy of the notice of application with the occupant, or agent of the owner. If there is no occupant, or agent of the owner, the sheriff may place a copy in the post office addressed to the owner thirty days prior to the day set for the hearing. If the owner is a minor, insane, mentally incapacitated, or a decedent, notice shall be served on his guardian, administrator, or other legal representative.

SEC. 2. Section 4662 of the Labor Code is amended to read:

4662. Any of the following permanent disabilities shall be conclusively presumed to be total in character:

- (a) Loss of both eyes or the sight thereof.
- (b) Loss of both hands or the use thereof.
- (c) An injury resulting in a practically total paralysis.
- (d) An injury to the brain resulting in incurable mental incapacity or insanity.

In all other cases, permanent total disability shall be determined in accordance with the fact.

SEC. 3. Section 26 of the Penal Code is amended to read:

26. All persons are capable of committing crimes except those belonging to the following classes:

One—Children under the age of 14, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

Two—Persons who are mentally incapacitated.

Three—Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

Four—Persons who committed the act charged without being conscious thereof.

Five—Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

Six—Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or

1 menaces sufficient to show that they had reasonable cause to and
2 did believe their lives would be endangered if they refused.

3 SEC. 4. Section 31 of the Penal Code is amended to read:

4 31. All persons concerned in the commission of a crime,
5 whether it be felony or misdemeanor, and whether they directly
6 commit the act constituting the offense, or aid and abet in its
7 commission, or, not being present, have advised and encouraged
8 its commission, and all persons counseling, advising, or
9 encouraging children under the age of fourteen years, or persons
10 who are mentally incapacitated, to commit any crime, or who, by
11 fraud, contrivance, or force, occasion the drunkenness of another
12 for the purpose of causing him to commit any crime, or who, by
13 threats, menaces, command, or coercion, compel another to commit
14 any crime, are principals in any crime so committed.

15 SEC. 5. *It is the intent of the Legislature, in enacting this act,*
16 *not to adversely affect decisional case law that has previously*
17 *interpreted, or used, the terms “idiot,” “imbecility,” or “lunatic,”*
18 *or any variation thereof.*